



UNITED STATES OF AMERICA  
DEPARTMENT OF TRANSPORTATION  
OFFICE OF THE SECRETARY  
WASHINGTON, D.C.

Issued by the Department of Transportation  
on the 29th day of August, 1996

Served: September 4, 1996

Complaint of

**NORTHWEST AIRLINES, INC.**

**against**

**THE GOVERNMENT OF JAPAN**

under 49 U.S.C. section 41310

**Docket OST-96-1500**

**ORDER EXTENDING ACTION DEADLINE**

On July 3, 1996, Northwest filed a complaint under 49 U.S.C. section 41310 against the Government of Japan (Japan). Northwest states that Japan has refused to authorize its proposed Seattle-Osaka-Jakarta service in violation of the U.S.-Japan Air Transport Agreement.

In support of its complaint, Northwest states that it is one of the carriers designated under the 1952 U.S.-Japan aviation agreement which entitles Northwest to operate without restriction from the United States to Tokyo, Osaka and Naha, Japan and beyond Japan to "points of Northwest's choosing;"<sup>1</sup> that such services include the right to carry fifth-freedom traffic and that its schedules are subject only to ex post facto review. Northwest further states that consistent with the provisions of the bilateral aviation agreement, it made the requisite schedule filings in a timely manner with Japanese authorities and Japan accepted the application for consideration and review. Notwithstanding its bilateral entitlements, and its compliance with all Japanese filing procedures, Northwest states that on June 28, at the conclusion of the second round of intergovernmental consultations on this matter, Northwest was notified that it could not operate the service and that a permit would not be granted. Northwest argues that Japan's action seriously injures Northwest by limiting its ability to serve Asia and by precluding altogether Northwest's participation in the U.S.-Indonesia market; and that Japan's clear violation of the bilateral agreement warrants remedial action under the statute.

By Order 96-7-6, July 5, 1996, we invited all interested parties to file answers and replies to Northwest's complaint. Answers were filed by United Air Lines, Inc., Japan Air Lines (JAL), the

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<sup>1</sup> Complaint of Northwest at 2.

State of Hawaii, the Port of Seattle, and the Hiroshima Prefecture.<sup>2</sup> Northwest, Hawaii, and JAL filed replies. JAL and United filed additional responsive pleadings.<sup>3</sup>

Section 41310 provides that we shall approve, deny, dismiss, or set a complaint for hearing, or institute other procedures proposing remedial action, within 60 days after receipt of the complaint. We may extend the period for taking action up to 90 days from the date of the complaint if we conclude that it is likely that the complaint can be resolved satisfactorily through negotiations. We may further extend the action deadline up to 180 days from receipt of the complaint, in 30-day increments, if we find that intergovernmental negotiations have progressed to a point that a satisfactory resolution of the complaint appears imminent.

Diplomatic initiatives toward resolution of this matter have continued since the filing of Northwest's complaint. Although the matter is not yet resolved, we conclude that the public interest is best served by extending the deadline for action on Northwest's complaint for another 30 days to provide additional time to reach a negotiated resolution of this matter.

**ACCORDINGLY,**

1. We extend through October 1, 1996, the deadline for taking action on the complaint of Northwest Airlines, Inc., in Docket OST-96-1500;
2. We grant the motions of Japan Air Lines Company, Ltd., and United Air Lines, Inc., for leave to file otherwise unauthorized documents in Docket OST-96-1500; and
3. We will serve this order on Northwest Airlines, Inc.; American Airlines, Inc.; Continental Micronesia, Inc.; Delta Air Lines, Inc.; Federal Express Corporation; Trans World Airlines; United Air Lines, Inc.; United Parcel Service, Inc.; Japan Air Lines Company, Ltd.; All Nippon Airways Co., Ltd.; Japan Air System Company, Ltd.; Japan Air Charter Co., Ltd.; Japan Asia Airways Co., Ltd.; Japan Universal System Transport Co., Ltd.; Nippon Cargo Airlines Company, Ltd.; World Air Network Co., Ltd.; the Hiroshima Prefecture; the Port of Seattle, the State of Hawaii; the United States Department of State (Office of Aviation Negotiations); the Assistant U.S. Trade Representative (Asia), the Office of the United States Trade Representative; the United States Department of Commerce (Office of Service Industries); the Ambassador of Japan in Washington, D.C.; and the Air Transport Association.

By:

**CHARLES A. HUNNICUTT**  
**Assistant Secretary for Aviation**  
**and International Affairs**

(SEAL)

*An electronic version of this order is available on the World Wide Web at  
<http://www.dot.gov/dotinfo/general/orders/aviation.html>.*

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<sup>2</sup> The answer from the Hiroshima Prefecture was not received by the Department until after the date that answers were due and it was not served on the parties to this proceeding. We accepted the late-filed document and served it by facsimile on all parties on July 15.

<sup>3</sup> These pleadings were accompanied by motions for leave to file otherwise unauthorized documents. We will grant the motions.

